

**BEFORE THE WEST VIRGINIA BOARD OF MEDICINE**

**IN RE: DAVID R. FAKIER, M.D.**

**CONSENT ORDER**

The West Virginia Board of Medicine ("Board") and David R. Fakier, M.D. ("Dr. Fakier"), freely and voluntarily enter into the following Consent Order pursuant to the provisions of W. Va. Code § 30-3-14, *et seq.*:

**FINDINGS OF FACT**

1. Dr. Fakier currently holds a license to practice medicine and surgery in the State of West Virginia, License No. 22607, issued originally in 2007. Dr. Fakier's address of record is in Coeur d'Alene, Idaho.

2. In February 2009, the Arizona Medical Board agreed to issue a Letter of Reprimand to Dr. Fakier due to Dr. Fakier's disclosure to the Arizona Medical Board that the Kentucky Board of Medical Licensure issued him a Letter of Admonishment in March 2007, for failing to disclose a 1985 no contest plea to the charge of involuntary manslaughter due to reckless driving on his Kentucky license application. The Letter of Reprimand from the Arizona Medical Board was issued as well due to Dr. Fakier's failure to disclose the 1985 no contest plea to the Arizona Medical Board on his May 2006, initial license application to the Arizona Medical Board.

3. In July 1988, Dr. Fakier was permitted by the District Court of Galveston, Texas, to withdraw his previous plea of nolo contendere, his ten (10) year probation period was declared terminated and the indictment against Dr. Fakier was dismissed.

4. Dr. Fakier's explanation for his failure to disclose the 1985 no contest plea to two (2) licensing boards was that the staff of his employer failed to answer the questions correctly and that "he failed to catch the mistake" when he signed the Arizona license application and that he relied upon the advice of counsel when the General Counsel of his employer advised him not to disclose the information on his Kentucky license application.

5. In March 2009, the Complaint Committee of the Board initiated a complaint against Dr. Fakier based upon Dr. Fakier's license being subjected to disciplinary action in other states based upon his failure to disclose his no contest plea to the Arizona Medical Board and the Kentucky Board of Medical Licensure.

6. Dr. Fakier filed a timely response to the Complaint initiated by the Complaint Committee of the Board. In his response, Dr. Fakier noted that he sent a letter dated April 26, 2006, explaining the auto accident and the subsequent legal proceedings to a number of states including West Virginia with his original application for licensure.

### **CONCLUSIONS OF LAW**

1. The Board has a mandate pursuant to the West Virginia Medical Practice Act to protect the public interest. W. Va. Code § 30-3-1.

2. Probable cause may exist to substantiate charges against Dr. Fakier pursuant to W. Va. Code § 30-3-14 (c)(17) and 11 CSR 1A 12.1 (e) and (j), relating to

unprofessional conduct, and W. Va. Code § 30-3-14 (c)(1) and (17), and 11 CSR 1A 12.1 (g), relating to making a false statement in connection with a licensure application and by having his license acted against in other states.

3. The Board has determined that it is appropriate and in the public interest to waive the commencement of proceedings against Dr. Fakier and to proceed without the filing of formal charges in a Complaint and Notice of Hearing, provided Dr. Fakier complies with the terms and conditions set forth herein.

### **CONSENT**

David R. Fakier, M.D., by affixing his signature hereon, agrees solely and exclusively for purposes of this agreement and the entry of the Order provided for and stated herein, and the proceedings conducted in accordance with this Order, to the following:

1. Dr. Fakier acknowledges that he is fully aware that, without his consent here given, no permanent legal action may be taken against him except after a hearing held in accordance with W. Va. Code § 30-3-14 (h) and W. Va. Code § 29A-5-1, *et seq.*

2. Dr. Fakier further acknowledges that he has the following rights, among others: the right to a formal hearing before the West Virginia Board of Medicine, the right to reasonable notice of said hearing, the right to be represented by counsel at his own expense, and the right to cross-examine witnesses against him.

3. Dr. Fakier waives all rights to such a hearing.

4. Dr. Fakier consents to the entry of this Order relative to his practice of medicine and surgery in the State of West Virginia.

5. Dr. Fakier understands that this Order is considered public information.


## ORDER

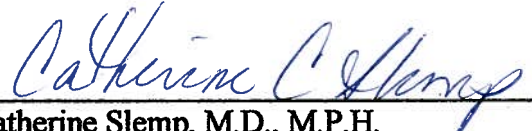
**WHEREFORE**, on the basis of the foregoing Findings of Fact and Conclusions of Law of the Board, and on the basis of the consent of Dr. Fakier, the West Virginia Board of Medicine hereby **ORDERS** as follows:

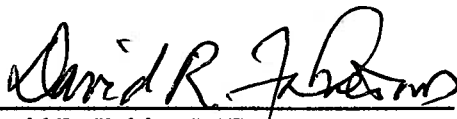
1. David R. Fakier, M.D., is hereby **PUBLICLY REPRIMANDED**, for unprofessional and unethical conduct in relation to his making false statements in connection with licensure applications in other states and for having his license acted upon by the states of Kentucky and Arizona.

The foregoing Order was entered this 15<sup>th</sup> day of June, 2009.

WEST VIRGINIA BOARD OF MEDICINE

  
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John A. Wade, Jr., M.D.  
President

  
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Catherine Slemp, M.D., M.P.H.  
Secretary

  
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David R. Fakier, M.D.

Date: 6/2/09

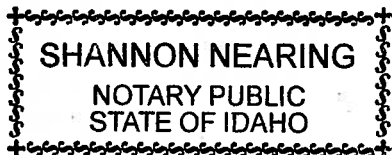
STATE OF Idaho

COUNTY OF Kootenai

I, Shannon Nearing, a Notary Public in and for said county and state do hereby certify that David Richard Fakier, M.D., whose name is signed on the previous page, has this day acknowledged the same before me.

Given under my hand this 2 day of June, 2009.

My commission expires 3/17/15.



Shannon Nearing  
Notary Public